



Local Rule 4001-2 Financing Motions and Orders (2013)

(a) Motions. Except as provided herein and elsewhere in these Local Rules, all financing motions, including cash collateral and financing requests under [§ \[1\]§363 \[2\]](#) and [364 \[1\]](#) of the Code ("Financing Motions"), must be heard by motion filed under [Fed. R. Bankr. P. 2002 \[3\]](#), [4001 \[4\]](#) and [9014 \[5\]](#).

(1) [Local Rule 4001-2 \[6\] Disclosure](#). All Financing Motions must recite whether the proposed order and/or underlying cash collateral stipulation or loan agreement contains any extraordinary relief, including that listed in subsections (a)(1)(A) through (a)(1)(G) below, identify the location of any such provision in the proposed order, cash collateral stipulation and/or loan agreement, and state the justification for the inclusion of such provision:

(A) Provisions that grant cross-collateralization protection (other than replacement liens or other adequate protection) to the prepetition secured creditors (i.e., clauses that secure prepetition debt by postpetition assets in which the secured creditor would not otherwise have a security interest by virtue of its prepetition security agreement or applicable law);

(B) Provisions or findings of fact that bind the estate or all parties in interest with respect to the validity, perfection or amount of a secured creditor's prepetition lien or debt or the waiver of claims against the secured creditor without giving parties in interest at least 75 days from the entry of the order and the creditors' committee, if formed, at least 60 days from the date of its formation to investigate such matters;

(C) Provisions that seek to waive, without notice, whatever rights the estate may have under [§552\(b\) \[7\]](#) of the Code;

(D) Provisions that grant immediately to the prepetition secured creditor liens on claims and causes of action arising under [§§544 \[8\]](#), [545. \[9\]](#) [547 \[10\]](#), [548 \[11\]](#), and [549 \[12\]](#) of the Code;

(E) Provisions that deem prepetition secured debt to be postpetition debt or that use postpetition loans from a prepetition secured creditor to pay part or all of that secured creditor's prepetition debt, other than as provided in [§552\(b\) \[7\]](#) of the Code;

(F) Provisions that provide disparate treatment for professionals retained by a creditors' committee from that provided for professionals retained by the debtor; and

(G) Provisions that prime any secured lien, without the consent of that lienor.

(2) [Summary](#). All Financing Motions must also provide a summary of the essential terms of the proposed use of cash collateral and/or financing (e.g., the maximum borrowing available on a final basis, the borrowing limit, borrowing conditions, interest rate, maturity, events of default, use of funds limitations, and protections afforded under [§§363 \[2\]](#) and [364 \[1\]](#) of the Code).

(b) Interim relief. When Financing Motions are filed with the court on or shortly after the date of the entry of the order for relief, the court may grant interim relief pending review by interested parties of the proposed financing arrangements to avoid immediate and irreparable harm to the estate. In the absence of extraordinary circumstances, the court will not approve interim financing orders that include any of the provisions in subsection (a)(1)(A) through (a)(1)(G) of this rule.

(c) Final Orders. A final order on a motion under subsection (a) of this Local Rule will be entered only after notice and a hearing under [Fed.R.Bankr.P. 4001 \[4\]](#) and [Local Rule 2002-1 \[13\]](#). Ordinarily, the final hearing should be held at least 14 days following the organizational meeting of the creditors'



committee contemplated by [§1102](#) [14] of the Code.

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Links

- [1] <https://www.law.cornell.edu/uscode/text/11/364>
- [2] <https://www.law.cornell.edu/uscode/text/11/363>
- [3] https://www.law.cornell.edu/rules/frbp/rule_2002
- [4] https://www.law.cornell.edu/rules/frbp/rule_4001
- [5] https://www.law.cornell.edu/rules/frbp/rule_9014
- [6] <https://www.utb.uscourts.gov/local-rules/2013/4001/2>
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